**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929**

**WP(C).No. 22867 of 2007(V)**
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**AGAINST E.P.51/06 IN FILE 567/02 OF THE MUNSIFF'S COURT, VAIKOM.**

**PETITIONERS:**
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**1. C.V.SUGATHAN, AGED 50 YEARS,**
**S/O VELAYUDHAN, CHERAYIL VEEDU,**
**KUDAVECHOOR P.O., VAIKOM,**
**KOTTAYAM DISTRICT.**

**2. VILASINI C.P., AGED 40 YEARS,**
**W/O SUGATHAN, CHERAYIL VEEDU,**
**KUDAVECHOOR P.O., VAIKOM,**
**KOTTAYAM DISTRICT.**

**BY ADV. SRI.VAKKOM N.VIJAYAN**
**SMT.VINITHA PRASANNAN**
**SRI.P.ANIYAN**
**SRI.A.S.SACHIN**
**SMT.REEJA HARI**

**RESPONDENTS:**
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**THE SECRETARY,**
**CENTRAL HOUSING CO-OPERATIVE LTD.NO.K.669,**
**VAIKOM, KOTTAYAM.**

**BY**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**M.N.KRISHNAN, J**

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**W.P.(C) No.22867 OF 2007**

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**Dated this the 26th day of July, 2007**

**JUDGMENT**

This writ petition is filed for a direction to the respondent to accept the payments in instalments and convey the property to the petitioners after the entire payment is made. The decree holder in the matter is a Central Housing Co-operative Bank. In execution of the award the property of the petitioners was put in auction and it was bid and the sale confirmed. Sale certificate issued and posted for delivery of the property on 27.7.2007. Now the petitioners want some discretionary relief by permitting them to pay back the amount and get back the property. Methods known to law for setting aside the sale had not been used by the petitioners. The sale was done as early as in 2004 and at this point of time one cannot set aside the order and that too when there is no remedy resorted to under the provisions of the Code of Civil Procedure.

Therefore the only solace that can be given is to direct the decree holder to consider the case of the petitioners sympathetically. The decree holder may consider being a co-operative bank whether the property can be

re-transferred to the petitioners, if the entire amount is paid including the expenses for reconveyance. In order to enable the petitioners to move the decree holder for such a sympathetic consideration, I direct the delivery to be deferred by 3 weeks from today and if nothing materialises the court below shall fix a date for delivery before actually effecting delivery of the property.

Writ petition is disposed of as above.

**M.N.KRISHNAN, JUDGE**

**Cdp/-**